### **DELIBERATIVE AGENDA**

# SPECIAL CITY COUNCIL WORKSESSION MONDAY, OCTOBER 3, 2011 CONFERENCE ROOM 12, CITY HALL 6:30 P.M.

PRESENT: Mayor Kiss; City Council President Keogh; Councilors Bushor, Mulvaney-Stanak, Brennan, Decelles, Hartnett, Blais, Berezniak, Wright, Shannon, Kranichfeld, Paul and Adrian (arrived at 7:25); Interim CAO Schrader; ACAO Goodwin; City Assessor Vickery; City Attorney Schatz; Assistant City Attorney Haesler, Dave Provost and Terry Dorman

**ABSENT: Councilor Dober** 

1. AGENDA

On a motion by Councilors Bushor and Mulvaney-Stanak, the agenda was adopted as is.

- 2. COMMUNICATION: Richard Haesler, Assistant City Attorney, re: Potential Settlement of Pending Litigation (oral)
  - \*\*\* \* EXPECTED EXECUTIVE SESSION \* \* \* \*
- 2.5. COMMUNICATION: Ken Schatz, City Attorney, re: Burlington Telecom (oral)

\* \* \* \* EXPECTED EXECUTIVE SESSION \* \* \* \*

On a motion by Councilors Bushor and Mulvaney-Stanak, the Special City Council Work Session voted unanimously to go into executive session at 6:35 p.m., premature disclosure would place the City at a substantial disadvantage. Present were: see above.

3. ADJOURNMENT

On a motion by Councilors Bushor and Mulvaney-Stanak, the Special City Council Work Session voted unanimously to adjourn at 7:34 p.m.

Attest:

Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary

REGULAR MEETING, CITY COUNCIL MONDAY, OCTOBER 3, 2011 CONTOIS AUDITORIUM, CITY HALL 7:40 P.M.

PRESENT: Mayor Kiss; City Council President Keogh, Councilors Bushor, Mulvaney-Stanak, Brennan, Decelles, Hartnett, Blais, Berezniak, Wright, Shannon, Kranichfeld, Paul, Adrian and Dober (via phone)

CITY ATTORNEY'S OFFICE: Ken Schatz, Richard Haesler and Gene Bergman (arrived at 7:43 p.m.)

CLERK/TREASURER'S OFFICE: Scott Schrader, Rich Goodwin and Lori Olberg

#### 1. AGENDA

On a motion by Councilor Shannon, the agenda was unanimously adopted, as amended, as followed: amend the action for consent agenda item 3.07. COMMUNICATION: Hans Van Wees, President, Director, David H. Greenberg, Director and William Lockwood, Jr. Director, 200 Lake Street Condominium Association, Inc. re: Waterfront Park to "waive the reading, accept the communication, place it on file and refer it to both the City Attorney's Office and the Parks and Recreation Commission with a report due back at the November 7, 2011 City Council Meeting; add to the consent agenda item 3.08. COMMUNICATION: Bob Kiss, Mayor to Gretchen Morse, Executive Director of the United Way of Chittenden County, re: Thank you with the consent action to "waive the reading, accept the communication and place it on file" and 3.09. SPECIAL EVENT INDOOR ENTERTAIMENT PERMIT APPLICATION (one day only): The Other Place, 4 North Winooski Avenue, Hurricane Irene Fundraiser, Saturday, October 9, 2011, Live Band, 9:00 p.m. – 12:00 a.m. with the consent action to "waive the reading, accept the communication, place it on file and approve the Special Event Indoor Entertainment Permit Application for The Other Place, for one day only."

### 2. PUBLIC FORUM

City Council President Keogh opened the public forum at 7:42 p.m.

NameWard/AffiliationSubjectBrian AlbarelliArrest on CSMRon Ruloff3Food Shelf Issues

There being no one further coming forward and no objection from the remaining Council, City Council President Keogh closed the public forum at 7:48 p.m.

## 3. CONSENT AGENDA

On a motion by Councilors Shannon and Bushor, the consent agenda was unanimously adopted, as amended, thus taking the following actions as indicated:

3.01. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re: Accountability List

\*waive the reading, accept the communication and place it on file

3.02. COMMUNICATION: Amy J. Bovee, Executive Secretary to the CAO and Lori Olberg,

Licensing, Voting and Records Coordinator, re: Minutes, Regular

City Council, June 27, 2011 Draft

\*waive the reading, accept the communication, place it on file and adopt the minutes as received at the September 26, 2011 City Council Meeting

3.03. COMMUNICATION: Lori Olberg, Licensing, Voting and Records Coordinator and Amy J.

Bovee, Executive Secretary, re: Minutes, Regular City Council,

July 11, 2011 Draft

\*waive the reading, accept the communication, place it on file and adopt the minutes as received at the September 26, 2011 City Council Meeting

Minutes, Regular City Council Meeting, October 3, 2011

3.04. RESOLUTION: Authorization to Execute Easement Deed re: River's Edge Condominium

Association (Board of Finance)

3.05. COMMUNICATION: Joan Shannon, Chair, Ordinance Committee, re: Dog Parks – Off Leash

Work Group

3.06. COMMUNICATION: Kenneth A. Schatz, Esq., City Attorney, re: Retirement Board

Composition

3.07. COMMUNICATION: Hans Van Wees, President, Director, David H. Greenberg, Director and

William Lockwood, Jr. Director, 200 Lake Street Condominium

Association, Inc. re: Waterfront Park

\*waive the reading, accept the communication, place it on file and refer it to both the City Attorney's Office and the Parks and Recreation Commission with a report due back at the November 7, 2011 City Council Meeting

3.08. COMMUNICATION: Bob Kiss, Mayor to Gretchen Morse, Executive Director of the United Way of Chittenden County, re: Thank you

3.09. SPECIAL EVENT INDOOR ENTERTAIMENT PERMIT APPLICATION (one day only):

The Other Place, 4 North Winooski Avenue, Hurricane Irene Fundraiser, Saturday, October 9, 2011, Live Band, 9:00 p.m. – 12:00 a.m.

\*waive the reading, accept the communication, place it on file and approve the Special Event Indoor Entertainment Permit Application for The Other Place, for one day only

4. COMMUNICATION: City Council Rules Committee: Councilor Bill Keogh, Councilor Sharon Bushor, Councilor Kurt Wright, re: Proposed Amendments to City Council Rules (material part of the September 26<sup>th</sup> CC packet)

Councilors Bushor and Wright made a motion to waive the reading, accept the communication and place it on file with action to be taken at the October 17<sup>th</sup> City Council Meeting.

Councilor Bushor stated the Rules Committee, with the help of City Attorney Schatz, discussed and made some changes to the City Council Rules to reflect current practices and to strengthen them. There had been some feedback so far regarding changes and they have been appreciated.

### DISCUSSION:

Councilor Adrian discussed the section where City Council was struck and the Chief Administrative Officer was added when delegating who chose staff for City Council Committees, stating that this made sense logistically, but the City Council should retain oversight. He discussed the section where Councilors should not assign or request significant assignments be carried out by City Departments, stating that significant assignment should be defined. He stated the section where it said City Councilors should not leave their seats during public forum should not be included as a rule. He discussed the section where it stated it was not appropriate to move an item from the consent to deliberative agenda stating there are times when it was important to provide information to the public and that Councilors should be able to debate items when they felt it was necessary. He discussed the section that said Councilors should speak to staff people regarding changes to the agenda before moving an item from consent to deliberative

<sup>\*</sup>waive the reading and adopt the resolution

<sup>\*</sup>waive the reading, accept the communication and place it on file

<sup>\*</sup>waive the reading, accept the communication and place it on file

<sup>\*</sup>waive the reading, accept the communication and place it on file

agenda stating this may make sense sometimes but it could be difficult to find time to make those inquiries and discussing items could be good for educating constituents. He discussed the section stating Councilors should not use cell phones during public forum stating it was unclear what a cell phone was, and whether or not it would refer to all electronics.

Councilor Mulvaney-Stanak discussed the section regarding timely updates of mission statements from committees and stated it should be specified that these updates go to the Council. She made the same suggestion regarding minutes. She discussed the section regarding ad hoc committees and stated there should be more of a definition of what these committees were. City Council President Keogh stated he would like to have an ad hoc committee to deal with the reapportionment issue.

Councilor Bushor requested that Councilors with more feedback send their suggestions to the City Council President and he would forward them appropriately. She requested to have the proposed language before the night of the next meeting to avoid editing on the floor.

The motion passed unanimously.

5. REPORT: Steven Goodkind, DPW Director and Bob Alberry, Chairman of DPW Commission re: Annual Report to City Council – FY2011

Steve Goodkind stated the report was a summary of general fund, special revenue and enterprise departments. The budget balanced out at the end of a busy year. There was a heavy snow season and a large construction season. There was also work with flood cleanup.

Councilor Decelles stated that lower Church Street was beautiful and the traffic downtown was a headache. He inquired what had happened with paving on North Avenue. Mr. Goodkind stated that paving was done in segments and North Avenue was a large segment, the equivalent of four or five normal ones. Each segment was approached by milling off asphalt and adjusting structures. It had taken a long time to get through structure adjustment and it would be paved in the next week or two. It was best if the top layer was done in one piece. Councilor Decelles inquired when it would be done. Mr. Goodkind stated a week or two and it was supposed to be done by the end of the month. He stated they were following a normal pattern.

Councilor Bushor stated she would like to see all departments using performance measurements and inquired why it was not done this way. Mr. Goodkind stated the person who used to do it was unable and they would work to do it that way next year. Councilor Bushor inquired how engineering and right of way were funded. Mr. Goodkind stated they were through the general fund. They did get reimbursed through other sources, but were classified as general fund. Councilor Bushor inquired about revenue for parking garages being down and inquired how much. Mr. Goodkind stated it was about \$14,000 negative. Airport revenues were down because they were closed for constructions. Most departments came out balanced.

Councilor Shannon inquired about how the Commission made decisions in regards to resident only parking. It had been granted in some neighborhoods which increased pressure on other neighborhoods. She stated she could not support resident only parking because all tax payers paid for streets and when it was added it created problems everywhere else. She inquired if the Commission had taken a City-wide approach to looking at this issue. Mr. Alberry stated it was a difficult issue and it came down to what the neighborhood wanted and what was best for them. Some Commissioners were for it and against it, but it should be looked at City-wide. Setting 25 mph speed limits would also be examined. Councilor Shannon inquired if the City Council needed to pass a resolution or if the Commission would review the policy on its own. Mr. Alberry stated the Commission could take it up. Mr. Goodkind stated there was a parking study that might provide some answers and ideas. Councilor Shannon stated it was difficult to tell one group they could have it and another that they could not. Mr. Goodkind stated there were certain zones where it was not granted. Councilor Shannon inquired about the area near Callahan Park. Mr. Goodkind

Minutes, Regular City Council Meeting, October 3, 2011 5 stated some parks were included and others were not. Mr. Alberry stated the Commission would not block off parking for a whole park.

Councilor Wright inquired if there had been any meetings regarding the Airport Parking Garage issue. Mr. Goodkind stated he had not had the opportunity to meet with them directly. Councilor Wright requested a Champlain Parkway update. Mr. Goodkind stated it was in the Act 250 process and there had been several hearings. Testimony would be done in November. Councilor Wright inquired about funding. Mr. Goodkind stated if it was built the City would have to contribute 2%, an amount of about \$600,000. Councilor Wright inquired how the spring flooding had affected the budget. Mr. Goodkind stated there was a maintenance budget that had covered the expenses so far.

Councilor Berezniak inquired about recycling containers and the response to the program. Mr. Goodkind stated they purchased several at a discount and have sold several. He expected more people would buy them and the drivers preferred them. Councilor Berezniak inquired if there was an incentive for landlords to buy them. Mr. Goodkind stated they were only 48 dollars and he would think about that. They provided a better system as long as they were not contaminated. Councilor Berezniak inquired where the City's matching funds would come from if the Champlain Parkway was created. Mr. Goodkind stated it could come from the paving fund in the Street Capital Program or the City could have a vote for a bond. It was likely a few years away. Councilor Berezniak inquired if the State would fund anything. Mr. Goodkind stated it would be 95% federal and 3% state. It could be appropriate to fund part of it through Street Capital. Councilor Berezniak inquired if the State would have the funding for their share. Mr. Goodkind stated most projects had a local state share of 25% so this being a small percentage, they probably would.

Councilor Hartnett stated better information to residents in paving areas would be appreciated. If they had a date in mind it would be helpful to Councilors and constituents. He stated residents have had frustrations with Parks and Public Works referring them back and forth to the other. Mr. Goodkind stated there were confusions but Public Works dealt with right of ways; the Bike Path was Parks except where it crossed a right of way. Parks and Public Works worked together well. Councilor Hartnett suggested having a go to person for those ambiguous issues. He inquired about the quality of equipment and if we had or could afford what we need. Mr. Goodkind stated the department mostly had what it needed, though some were older. The maintenance system was good. It would not hurt to have newer and more equipment, but what we had worked.

Councilor Bushor stated residential parking was essential for Ward 1, especially with Centennial Field. If removed, it would become UVM and Fletcher Allen's parking lot. The criteria to petition was if the number of people on the street was less than the number of parking spaces and they still could not find spaces, they would qualify. She suggested they keep the needs of different wards in mind.

Mayor Kiss stated Public Works had done a great job providing all the services that came out of the department. He also thanked the Commission for working on the 25mph speed limit. He inquired about the Streets Budget. Mr. Goodkind stated the paving for next year would be \$1.4 million. Paying for the Champlain Parkway over the next few years might make it less difficult. Mayor Kiss inquired about the pavement condition index. Mr. Goodkind stated the City-wide average would probably be in the 80s. Mayor Kiss stated there had been progress.

Mr. Alberry stated the Commission would be voting on the 25 mph speed limit, Main Street work for Edmunds School and Colchester Avenue at the next meeting.

Without objection, City Council President Keogh made a motion to waive the reading, accept the communication and place it on file.

6. APPOINTMENT: Telecommunications Advisory Committee (Term expires 6/30/14)

Councilor Shannon nominated Bradley Holt.

## 7. COMMITTEE REPORTS (5 mins.)

Councilor Shannon stated the Ordinance Committee would meet to discuss the makeup of the Retirement Board and the proposed Smoking Ordinance.

## 8. COMMUNICATION: City Councilors, re: General City Affairs (oral)(10 mins.)

Councilor Berezniak stated the Community Development and Neighborhood Revitalization Committee would meet and discuss ballot language for downtown TIF.

Councilor Shannon thanked Councilor Berezniak for asking his questions.

Councilor Bushor stated the Planning Commission acted on the request that the Council sent to them as a result of the open government meetings and how to involve neighborhoods sooner in projects in that Ward. Planning sent a proposal to NPAs. They only got feedback from Wards 5 and 4/7. They decided major projects in the ward developers would contact NPAs that would occur within one year it was presented to the DRB. It was a move in the right direction. Engaging with the public earlier would make the whole permitting process run better and reduce the number of appeals.

Councilor Brennan stated the School Board Diversity Equity and Inclusion Committee would be delivering its report to the School Board.

City Council President Keogh stated they will have to work on the reapportionment issue and will be looking for volunteers for that ad hoc committee. He also congratulated Councilor Berezniak on being a new grandfather.

### 9. COMMUNICATION: Mayor Kiss, re: General City Affairs (oral) (5 mins.)

Mayor Kiss stated there was a meeting to discuss CDBG reductions in the coming years and restrictions in the use of administrative costs. The City had been effective in this program and would need to figure out how to use the money and what future priorities would be. It might be necessary to look to other sources for funding.

He stated CCTA was starting a new event called Curb Your Car day on the first Friday of each month to encourage people to use mass transit. This would be the first day and would work with the Way to Go Awards.

He stated there had always been an issue with the City paying for the FICA and Retirement for non-teacher employees in the Schools. There would be meetings to try to resolve these issues going forward. It would have important consequences for the Schools and the City.

#### 10. ADJOURNMENT

Without objection, City Council President Keogh adjourned the Regular City Council Meeting at 8:41 p.m.

### Attest:

Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary

# BOARD OF ABATEMENT OF TAXES MONDAY, OCTOBER 3, 2011 8:41 P.M.

PRESENT: see above; also City Assessor John Vickery

## MAYOR KISS PRESIDING:

#### 1. AGENDA

On a motion by Board of Abatement of Taxes Members Shannon and Bushor the agenda was unanimously adopted, as amended, as followed: remove from the consent agenda item 2.24. REQUEST FOR THE ABATEMENT OF TAXES: Sherrill N. Musty, Trustee and place it on the Deliberative Agenda as agenda item 3.7 and remove from the consent agenda item 2.11. REQUEST FOR THE ABATEMENT OF TAXES: Frederick & Barbara Carlson and place it on the Deliberative Agenda as agenda item 3.8.

#### 2. CONSENT AGENDA

On a motion by Councilors Wright and Decelles the consent agenda was unanimously adopted, as amended, thus taking the following actions as indicated:

2.01. COMMUNICATION: Clerk/Treasurer's Office, re: Notice of Board of Tax Abatement (advertised in the September 28, 2011 of Seven Days)

\*waive the reading, accept the communication and place it on file

2.02. REQUEST FOR THE ABATEMENT OF TAXES: Brenda Bergman

33 North Cove Road 021-1-004-000

\*waive the reading and grant the request to abate taxes from the beginning of the evacuation period to the middle of fiscal year 2012

2.03. REQUEST FOR THE ABATEMENT OF TAXES: Bruce Lancer

87 North Cove Road

021-1-009-000

\*waive the reading and grant the request to abate taxes of the entire 4<sup>th</sup> quarter of fiscal year 2011

2.04. REQUEST FOR THE ABATEMENT OF TAXES: Guy Southwell

101 North Cove Road

021-1-010-000

\*waive the reading and deny the request for the abatement of taxes

2.05. REQUEST FOR THE ABATEMENT OF TAXES: Theresa Peters

94 North Cove Road

021-1-019-000

\*waive the reading and grant the request to abate taxes of the entire 4<sup>th</sup> quarter of fiscal year 2011

2.06. REQUEST FOR THE ABATEMENT OF TAXES: Carol & Keith Shappy

84 North Cove Road

021-1-020-000

\*waive the reading and grant the request to abate taxes of the entire 4<sup>th</sup> quarter of fiscal year 2011

2.07. REQUEST FOR THE ABATEMENT OF TAXES:

Robert Bristow Johnson 40 North Cove Road 021-1-027-000

\*waive the reading and grant the request to abate taxes of the entire 4<sup>th</sup> quarter of fiscal year 2011

2.08. REQUEST FOR THE ABATEMENT OF TAXES:

Paul Wm. Meacham Sr.

**Sharon Berry** 

129 South Crest Drive

060-1-006-000

\*waive the reading and grant the request to abate taxes from the date of the fire to the end of the fiscal year 2011

2.09. REQUEST FOR THE ABATEMENT OF TAXES:

Andrea & Richard Kenney

175 Appletree Point Road

\*waive the reading and deny the request for the abatement of taxes

2.10. REQUEST FOR THE ABATEMENT OF TAXES:

Mark & Anna Plante 259 Appletree Point Road

031-1-008-000

031-1-001-000

\*waive the reading and deny the request for the abatement of taxes

2.11. REQUEST FOR THE ABATEMENT OF TAXES:

Frederick & Barbara Carlson

101 Killarney Drive

033-1-010-000

\*waive the reading and deny the request for the abatement of taxes

2.12. REQUEST FOR THE ABATEMENT OF TAXES:

Jean Anderson

125 Cumberland Road #34

027-4-118-034

\*waive the reading and grant the request to abate the interest

2.13. REQUEST FOR THE ABATEMENT OF TAXES:

Michael & Tracie Spencer

71 Alexis Drive 027-4-032-000

\*waive the reading and deny the request for the abatement of taxes

2.14. REQUEST FOR THE ABATEMENT OF TAXES:

Spencer Willard LLC

130 South Willard Street

050-1-111-000

\*waive the reading and deny the request for the abatement of taxes

2.15. REQUEST FOR THE ABATEMENT OF TAXES:

Lawrence Smith Clerk's Office-Internal 274 North Winooski Avenue

040-2-066-000

\*waive the reading and grant the request to abate the interest

2.16. REQUEST FOR THE ABATEMENT OF TAXES:

Kim Holtan

83 North Champlain Street

044-1-324-000

<sup>\*</sup>waive the reading and deny the request for the abatement of taxes

2.17. REQUEST FOR THE ABATEMENT OF TAXES:

Gilman Lang Kim Holtan

96 Deforest Heights 054-1-167-000

\*waive the reading and deny the request for the abatement of taxes

2.18. REQUEST FOR THE ABATEMENT OF TAXES: Richard Gardner/Stephen Hard

7 – 9 Allen Street 044-1-362-000

\*waive the reading and deny the request for the abatement of taxes

2.19. REQUEST FOR THE ABATEMENT OF TAXES: Olin Robinson

35 Cherry Street Unit 503

044-2-145-503

\*waive the reading and deny the request for the abatement of taxes

2.20. REQUEST FOR THE ABATEMENT OF TAXES: Juan Miguel Larach

40 College Street #307

049-1-087-307

\*waive the reading and deny the request for the abatement of taxes

2.21. REQUEST FOR THE ABATEMENT OF TAXES: Wendy Watson-Ekstein

131 Main Street #502

049-3-095-502

\*waive the reading and deny the request for the abatement of taxes

2.22. REQUEST FOR THE ABATEMENT OF TAXES: Mara Coven

92 Overlake Park

054-1-146-000

\*waive the reading and grant the request to abate the interest

2.23. REQUEST FOR THE ABATEMENT OF TAXES: Robert J. Limoge Irrev. Trust

7 Harbor Watch Road

056-3-022-007

\*waive the reading and grant the request to abate the interest

2.25. REQUEST FOR THE ABATEMENT OT TAXES: Heise Metal Sculptures

Carol Heise 162 Maple St. PPP084440

2.26. REQUEST FOR THE ABATEMENT OF TAXES: Entertainment Solutions

Steve Taubman 113 Church St. PPP256365

2.27. REQUEST FOR THE ABATEMENT OF TAXES: Various Business

Personal Property

Clerk's Office – Internal

Various

\*waive the reading and grant the request to abate taxes, interest and penalties of these uncollectable businesses

2.28. REQUEST FOR THE ABATEMENT OF TAXES:

Mark Foster & Kelly Hyle 419 Flynn Avenue 057-4-048-000

10

\*waive the reading and deny the request for the abatement of taxes

3. REQUEST FOR THE ABATEMENT OF TAXES:

Delfausse Family LLC 195 Appletree Point Road 031-1-003-000

Ms. Delfausse thanked the Council.

Councilors Mulvaney-Stanak and Brennan made a motion to abate the taxes. The motion passed unanimously.

3.7 (was 2.24.) REQUEST FOR THE ABATEMENT OF TAXES:

Sherrill N. Musty, Trustee 62 Crescent Terrace 058-1-116-000

Mrs. Musty stated she was given a permit to build on a subdivided lot but it had been challenged by the neighborhood. The lot had no value until she was allowed to build on it and the court process was complete.

City Assessor John Vickery stated the sub-board denied the request because it appeared to be a request for a tax exemption on part of a property. The property had value and it was not uncommon for subdivisions to have value while they were being appealed.

Mrs. Musty inquired if there was a disparity in dollar value between a buildable and non-buildable lot. There was no dollar value to it as it stood.

Councilor Bushor stated Mrs. Musty had always owned the parcel and it was recently subdivided. The taxes on one parcel would be a certain amount and the taxes on two parcels would be a greater amount. She stated the challenge to building on the property was holding the owner hostage and inquired if there was any way to acknowledge that. Not taxing it would be unacceptable but inquired if it could be included in the initial parcel. She inquired if there was basis for the request and if it was something that had been experienced before. City Attorney Schatz stated the Board of Abatement must base its decisions on whether it was collectable, illegal, or manifestly unjust. The first two items did not apply but manifestly unjust was reasonable to consider. He stated there were Zoning appeals when people made proposals to build on lots that did put the property owner in a gray area while the appeal was pending.

City Assessor John Vickery stated the valuation question should go through the Board of Assessors and all taxpayers could put in a request for appeal. When a subdivision occurred, the value was not put at what it would sell for. There was a 40% discount with it being a stand-alone property because it was higher risk and undeveloped, but the property had value. Councilor Bushor stated the property should have a different value if it was developable or not. She inquired if the decision came out against the property owners, would she be able to get a refund if it was reexamined and revalued. Mr. Vickery stated it was not undevelopable. Down the road if it was deemed undevelopable the value would be adjusted appropriately. Mrs. Musty stated she would like the taxes to wait until the decision had been made as to whether or not it was buildable.

Councilor Shannon stated the question was not the value of the lot, but whether or not it was manifestly unjust to tax a property while it was in this limbo state. She inquired if there was an adjustment to the main parcel when this was subdivided. Mr. Vickery and Mrs. Musty stated there had been. Mrs. Musty stated the main parcel was reduced less than the subdivided lot was raised.

Minutes, Regular City Council Meeting, October 3, 2011

11

Councilors Mulvaney-Stanak and Brennan made a motion not to abate the taxes with the recommendation for the homeowner to bring the issue to the Board of Assessors.

Councilor Paul inquired if the homeowner would be able to go back to the Board of Assessors. Mr. Vickery stated they had finished the appeals for this fiscal year and it would occur again in May.

Mrs. Musty stated she attempted to do this before and was denied because the Board of Assessors did not understand the issue. Waiting another year would cost a lot more money and the taxes should be based on monetary value.

Mayor Kiss stated this was an appropriate motion.

Councilor Dober inquired how much different the taxes were as a result of the subdivision. Mr. Vickery stated the value on the subdivided lot was \$135,900. Before the subdivision it was valued at \$420,500 and now it was \$518,100 combined.

Councilor Paul stated this would leave the homeowner paying the tax for the next nine months. Mr. Vickery stated there was an appeal of the value and it was deemed it was set at the appropriate amount. There was an appeal for tax abatement that was before the Board now.

Councilor Decelles stated this was out of the homeowner and the City's control. This could happen again and it was manifestly unjust.

Councilor Berezniak inquired about the appeals. Mrs. Musty stated she appealed paying taxes and the value was a moot point if she could not build on it. Paying taxes on this lot that she could not do anything with was not fair. She stated there should be a policy to deal with this.

Interim CAO Schrader stated there would be a substantial impact if the City adopted a policy of abating taxes on properties that people could not build on.

Councilor Adrian stated this was the result of a business decision and her intent was to make a profit. This happened often with building projects where people were incurring costs and this happened to apply to an individual instead of a business. This was a risk that was taken when she chose to do this.

Councilor Bushor stated the Board of Assessors should address this but the timeline had expired. They might have denied or dismissed this because they did not understand it. It was not the Board of Tax Abatement's responsibility to decide this. She inquired what happened at the Board of Assessor's meeting. Mr. Vickery stated the request was for tax abatement.

Councilor Hartnett made a motion to call to question. The motion passed.

The motion passed unanimously.

3.8 (was 2.11.) REQUEST FOR ABATEMENT OF TAXES:

Frederick & Barbara Carlson 101 Killarney Drive 033-1-010-000

Councilor Wright stated the owners were unable to attend the meeting. He spoke to Mr. Carlson who had inquired about a section in the recommendation that recommended denying the abatement to the property due to flooding because there was minimal damage to the basement. The Board felt damage could have been avoided if the sump pump had not failed. Mr. Carlson noted that the sump pump failed when the sewer line was backed up, which was what happened this spring. Councilor Wright inquired if that was the property owner's fault. Mr. Vickery stated it was because the pump should be designed to drain outside the house and not into the sewer line. The reason for the denial was because the language in the

resolution stated there should be careful consideration for those who were forced to evacuate. These owners were not forced to evacuate. He stated he had inspected the property and where the water came in from the Elks' Club property there were two outdoor pumps that had been installed and this year they were overwhelmed and the pump shut off because the sewer line was backed up. It should be set up to pump out onto the lawn.

Councilor Mulvaney-Stanak stated there were many flood applications and they tried to create consistent criteria when there was evacuation and damage to the structure of the house. She added there was a lot of water in Burlington and this property was on the shoreline. The cause was a runoff issue and there were other methods that could have been used to prevent the flooding of the basement. It did not fall into the criteria of the resolution or being manifestly unjust.

Councilors Mulvaney-Stanak and Brennan made a motion to deny the request for Tax Abatement.

Councilor Shannon inquired if the property had a working heating system. Mr. Vickery stated when he did the inspection it was not working but was unsure about now. Councilor Shannon stated the flooding destroyed the furnace and inquired if it had ruined the livability of the home. Councilor Wright stated they were still living in the house and he thought that they had resolved the situation.

Councilor Hartnett thanked Mr. Vickery and Senior Assistant City Attorney Bergman for their help through this process.

The motion passed unanimously.

#### 4. ADJOURNMENT

On a motion by Councilors Hartnett and Wright, the Board of Abatement of Taxes voted unanimously to adjourn at 9:20 p.m.

Attest:

Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary